

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

SIMONE M. DICKSON,

Plaintiff,

-v-

1:22-CV-437 (Lead)
1:22-CV-943 (Member)

NURSE ABNA, IYNA MAYNOR,
S. MITTA, DR., and CAPITAL
DISTRICT PSYCHIATRIST
CENTER,

Defendants.

APPEARANCES:

OF COUNSEL:

SIMONE M. DICKSON
Plaintiff, Pro Se
590 Third Street, 2nd Floor
Albany, NY 12206

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On May 4, 2022, *pro se* plaintiff Simone M. Dickson (“plaintiff”) filed this civil action alleging that defendants violated her rights while she was under their medical care. Dkt. No. 1. Along with her complaint, plaintiff sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 2. Plaintiff filed a virtually identical pleading in the U.S. District Court for the District

of Columbia on July 8, 2022. *See* 1:22-CV-943. Plaintiff's second action was transferred to this judicial district on September 12, 2022. *Id.* at Dkt. No. 4.

On October 24, 2022, U.S. Magistrate Judge Christian F. Hummel issued a Report-Recommendation and Order in both cases. As relevant here, Judge Hummel advised by Report & Recommendation ("R&R") that: (1) plaintiff's two cases be consolidated; (2) the 1:22-CV-437 action be designated the "lead" case; (3) the claims against defendants Capital District Psychiatric Center, Nurse Abna, and Iyna Maynor be dismissed without prejudice but without leave to amend; and (4) the claims against defendant Dr. S. Mitta be dismissed without prejudice but with leave to amend.

Plaintiff has not filed objections in either action. The time period in which to do so has expired. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

ORDERED that

1. The Report & Recommendation is ACCEPTED in both actions;
2. The civil action filed at 1:22-CV-437 and the civil action filed at 1:22-CV-943 are CONSOLIDATED for all purposes;
3. The action filed at 1:22-CV-437 shall be designated the LEAD CASE;
4. The action filed at 1:22-CV-943 shall be designated as the MEMBER CASE;

5. All further submissions shall be filed in the LEAD CASE, except the Clerk of the Court shall docket a copy of this Order in both actions;

6. Plaintiff's complaint against defendants Capital District Psychiatric Center, Nurse Abna, and Iyna Maynor is DISMISSED WITHOUT PREJUDICE and WITHOUT LEAVE TO AMEND;

7. Plaintiff's complaint against defendant Dr. S. Mitta is DISMISSED WITHOUT PREJUDICE and WITH LEAVE TO AMEND;

8. Plaintiff may, but is not obligated to, amend her pleading to address the deficiencies identified in Judge Hummel's R&R;

9. Plaintiff shall have thirty (30) days in which to amend;

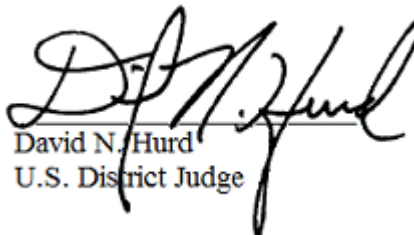
10. Any amended complaint must be filed in the LEAD CASE only;

11. If plaintiff files an amended complaint, the matter shall be returned to Judge Hummel for further review; and

12. IF plaintiff does not file an amended complaint, the Clerk of the Court is directed to close the file without further Order of the Court.

IT IS SO ORDERED.

Dated: December 1, 2022
Utica, New York.


David N. Hurd
U.S. District Judge